

111TH CONGRESS  
1ST SESSION

# H. R. 2509

To secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2009

Mrs. KIRKPATRICK of Arizona (for herself and Mr. FLAKE) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To secure Federal ownership and management of significant natural, scenic, and recreational resources, to provide for the protection of cultural resources, to facilitate the efficient extraction of mineral resources by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Southeast Arizona  
5       Land Exchange and Conservation Act of 2009”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to authorize, direct, facilitate, and expedite  
4 the conveyance and exchange of land between the  
5 United States and Resolution Copper;

6 (2) to provide for the permanent protection of  
7 cultural resources and uses of the Apache Leap es-  
8 carpment located near the town of Superior, Ari-  
9 zona; and

10 (3) to secure Federal ownership and protection  
11 of land with significant natural, scenic, recreational,  
12 water, riparian, cultural and other resources.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) **APACHE LEAP.**—The term “Apache Leap”  
16 means the approximately 822 acres of land (includ-  
17 ing the approximately 110 acres of land of Resolu-  
18 tion Copper described in section 4(c)(1)(G)), as de-  
19 picted on the map entitled “Apache Leap” and  
20 dated January 2009.

21 (2) **FEDERAL LAND.**—The term “Federal land”  
22 means the approximately 2,406 acres of land located  
23 in Pinal County, Arizona, depicted on the map enti-  
24 tled “Southeast Arizona Land Exchange and Con-  
25 servation Act of 2009—Federal Parcel—Oak Flat”  
26 and dated January 2009.

1           (3) NON-FEDERAL LAND.—The term “non-Fed-  
2       eral land” means each parcel of land described in  
3       section 4(c).

4           (4) OAK FLAT CAMPGROUND.—The term “Oak  
5       Flat Campground” means the campground that is—

6                (A) comprised of approximately 16 devel-  
7               oped campsites and adjacent acreage at a total  
8               of approximately 50 acres; and

9                (B) depicted on the map entitled “Oak  
10       Flat Campground” and dated January 2009.

11          (5) OAK FLAT WITHDRAWAL AREA.—The term  
12       “Oak Flat Withdrawal Area” means the approxi-  
13       mately 760 acres of land depicted on the map enti-  
14       tled “Oak Flat Withdrawal Area” and dated Janu-  
15       ary 2009.

16          (6) RESOLUTION COPPER.—The term “Resolu-  
17       tion Copper” means—

18               (A) Resolution Copper Mining, LLC, a  
19       Delaware limited liability company; and

20               (B) any successor, assign, affiliate, mem-  
21       ber, or joint venturer of Resolution Copper Min-  
22       ing, LLC.

23          (7) SECRETARY.—The term “Secretary” means  
24       the Secretary of Agriculture.

1           (8) SECRETARY CONCERNED.—The term “Sec-  
 2       retary concerned” means the Secretary of Agri-  
 3       culture or the Secretary of the Interior, as applica-  
 4       ble.

5           (9) TOWN.—The term “Town” means the Town  
 6       of Superior, Arizona, an incorporated municipality.

7       **SEC. 4. LAND CONVEYANCES AND EXCHANGES.**

8           (a) PURPOSES.—The purposes of the land convey-  
 9       ances and exchanges under this section are—

10           (1) to secure Federal ownership and protection  
 11       of significant natural, scenic, and recreational re-  
 12       sources; and

13           (2) to facilitate efficient extraction of mineral  
 14       resources.

15       (b) OFFER BY RESOLUTION COPPER.—

16           (1) IN GENERAL.—Subject to section 9(b)(1), if  
 17       Resolution Copper submits to the Secretary of Agri-  
 18       culture a written offer, in accordance with para-  
 19       graph (2), to convey to the United States all right,  
 20       title, and interest of Resolution Copper in and to the  
 21       non-Federal land, the Secretary shall—

22           (A) accept the offer; and

23           (B) convey to Resolution Copper all right,  
 24       title, and interest of the United States in and  
 25       to the Federal land, subject to—

1 (i) section 10(c); and

2 (ii) any valid existing right or title  
3 reservation, easement, or other exception  
4 required by law or agreed to by the Sec-  
5 retary concerned and Resolution Copper.

6 (2) REQUIREMENTS.—Title to any non-Federal  
7 land conveyed by Resolution Copper to the United  
8 States under paragraph (1) shall—

9 (A) be in a form that is acceptable to the  
10 Secretary concerned; and

11 (B) conform to the title approval standards  
12 of the Attorney General of the United States  
13 applicable to land acquisitions by the Federal  
14 Government.

15 (c) RESOLUTION COPPER LAND EXCHANGE.—On re-  
16 ceipt of title to the Federal land under subsection  
17 (b)(1)(B), Resolution Copper shall simultaneously con-  
18 vey—

19 (1) to the Secretary of Agriculture, all right,  
20 title, and interest that the Secretary determines to  
21 be acceptable in and to—

22 (A) the approximately 147 acres of land lo-  
23 cated in Gila County, Arizona, depicted on the  
24 map entitled “Southeast Arizona Land Ex-  
25 change and Conservation Act of 2009–Non-

1 Federal Parcel–Turkey Creek” and dated Janu-  
2 ary 2009;

3 (B) the approximately 148 acres of land  
4 located in Yavapai County Arizona, depicted on  
5 the map entitled “Southeast Arizona Land Ex-  
6 change and Conservation Act of 2009–Non-  
7 Federal Parcel–Tangle Creek” and dated Janu-  
8 ary 2009;

9 (C) the approximately 149 acres of land lo-  
10 cated in Maricopa County, Arizona, depicted on  
11 the map entitled “Southeast Arizona Land Ex-  
12 change and Conservation Act of 2009–Non-  
13 Federal Parcel–Cave Creek” and dated January  
14 2009;

15 (D) the approximately 88 acres of land lo-  
16 cated in Pinal County, Arizona, depicted on the  
17 map entitled “Southeast Arizona Land Ex-  
18 change and Conservation Act of 2009–Non-  
19 Federal Parcel–J–I Ranch” and dated January  
20 2009;

21 (E) the approximately 640 acres of land  
22 located in Coconino County, Arizona, depicted  
23 on the map entitled “Southeast Arizona Land  
24 Exchange and Conservation Act of 2009–Non-

1 Federal Parcel—East Clear Creek” and dated  
2 January 2009;

3 (F) the approximately 95 acres of land lo-  
4 cated in Pinal County, Arizona, depicted on the  
5 map entitled “Southeast Arizona Land Ex-  
6 change and Conservation Act of 2009—Non-  
7 Federal Parcel—The Pond” and dated January  
8 2009; and

9 (G) subject to the retained rights under  
10 subsection (d)(2), the approximately 110 acres  
11 of land located in Pinal County, Arizona, de-  
12 picted on the map entitled “Southeast Arizona  
13 Land Exchange and Conservation Act of 2009—  
14 Non-Federal Parcel—Apache Leap South End”  
15 and dated January 2009; and

16 (2) to the Secretary of the Interior, all right,  
17 title, and interest that the Secretary of the Interior  
18 determines to be acceptable in and to—

19 (A) the approximately 3,073 acres of land  
20 located in Pinal County, Arizona, depicted on  
21 the map entitled “Southeast Arizona Land Ex-  
22 change and Conservation Act of 2009—Non-  
23 Federal Parcel—Lower San Pedro River” and  
24 dated January 2009;

1 (B) the approximately 160 acres of land  
2 located in Gila and Pinal Counties, Arizona, de-  
3 picted on the map entitled “Southeast Arizona  
4 Land Exchange and Conservation Act of 2009–  
5 Non-Federal Parcel–Dripping Springs” and  
6 dated January 2009; and

7 (C) the approximately 956 acres of land lo-  
8 cated in Santa Cruz County, Arizona, depicted  
9 on the map entitled “Southeast Arizona Land  
10 Exchange and Conservation Act of 2009–Non-  
11 Federal Parcel–Appleton Ranch” and dated  
12 January 2009.

13 (d) ADDITIONAL CONSIDERATION TO UNITED  
14 STATES.—

15 (1) SURRENDER OF RIGHTS.—Subject to para-  
16 graph (2), in addition to the non-Federal land to be  
17 conveyed to the United States under subsection (c),  
18 and as a condition of the land exchange under this  
19 section, Resolution Copper shall surrender to the  
20 United States, without compensation, the rights held  
21 by Resolution Copper under mining and other laws  
22 of the United States—

23 (A) to commercially extract minerals  
24 under—

25 (i) Apache Leap; or

1 (ii) the parcel identified in subsection  
2 (c)(1)(F); and

3 (B) to disturb the surface of Apache Leap,  
4 except with respect to such fences, signs, moni-  
5 toring wells, and other devices, instruments, or  
6 improvements as are necessary to monitor the  
7 public health and safety or achieve other appro-  
8 priate administrative purposes, as determined  
9 by the Secretary, in consultation with Resolu-  
10 tion Copper.

11 (2) EXPLORATION ACTIVITIES.—Nothing in this  
12 Act prohibits Resolution Copper from using any ex-  
13 isting mining claim held by Resolution Copper on  
14 Apache Leap, or from retaining any right held by  
15 Resolution Copper to the parcel described in sub-  
16 section (c)(1)(G), to carry out any underground ac-  
17 tivities under Apache Leap in a manner that the  
18 Secretary determines will not adversely impact the  
19 surface of Apache Leap (including drilling or locat-  
20 ing any tunnels, shafts, or other facilities relating to  
21 mining, monitoring, or collecting geological or  
22 hydrological information) that do not involve com-  
23 mercial mineral extraction under Apache Leap.

24 (e) USE OF EQUALIZATION PAYMENT.—

1           (1) PAYMENT.—Resolution Copper shall pay  
2       into the Federal Land Disposal Account established  
3       by section 206(a) of the Federal Land Transaction  
4       Facilitation Act (43 U.S.C. 2305(a)) (or any suc-  
5       cessor account) any cash equalization funds owed by  
6       Resolution Copper to the United States under sec-  
7       tion 7(b)(1), to remain available until expended,  
8       without further appropriation, to the Secretary and  
9       the Secretary of the Interior, as the Secretaries  
10      jointly determine to be appropriate, for—

11           (A) the acquisition from willing sellers of  
12      land or interests in land within the hydro-  
13      graphic boundary of the San Pedro River and  
14      tributaries in the State of Arizona; and

15           (B) the management and protection of en-  
16      dangered species and other sensitive environ-  
17      mental values and land within the San Pedro  
18      Riparian National Conservation Area estab-  
19      lished by section 101(a) of the Arizona-Idaho  
20      Conservation Act of 1988 (16 U.S.C. 460xx(a))  
21      (including any additions to the area), including  
22      management under any cooperative manage-  
23      ment agreement entered into by the Secretary  
24      of the Interior and a State or local agency

1 under section 103(c) of that Act (16 U.S.C.  
2 460xx-2(c)).

3 (2) PERIOD OF USE.—To the maximum extent  
4 feasible, the amount paid into the Federal Land Dis-  
5 posal Account by Resolution Copper under para-  
6 graph (1) shall be used by the Secretary and the  
7 Secretary of the Interior during the 2-year period  
8 beginning on the date of payment.

9 (3) COOPERATIVE MANAGEMENT AGREE-  
10 MENTS.—The Secretary of the Interior may enter  
11 into such cooperative management agreements with  
12 qualified organizations (as defined in section 170(h)  
13 of the Internal Revenue Code of 1986) as the Sec-  
14 retary of the Interior determines to be appropriate  
15 to administer portions of the San Pedro Riparian  
16 National Conservation Area.

17 **SEC. 5. TIMING AND PROCESSING OF EXCHANGE.**

18 (a) SENSE OF CONGRESS REGARDING TIMING OF  
19 EXCHANGE.—It is the sense of Congress that the land ex-  
20 change directed by section 4 should be consummated by  
21 not later than 1 year after the date of enactment of this  
22 Act.

23 (b) PRE-EXCHANGE NEPA COMPLIANCE.—

24 (1) SECRETARIAL DETERMINATION.—The Sec-  
25 retary shall determine whether the exchange directed

1 by section 4 is subject to section 102(2) of the Na-  
2 tional Environmental Policy Act of 1969 (42 U.S.C.  
3 4322(2)).

4 (2) ANALYSIS.—If the Secretary determines  
5 pursuant to paragraph (1) that the exchange is sub-  
6 ject to section 102(2) of such Act—

7 (A) the Secretary shall be responsible for  
8 the preparation of the document;

9 (B) the document prepared pursuant to  
10 section 102(2) of such Act shall adhere to the  
11 provisions of this paragraph notwithstanding  
12 any provision of such section to the contrary;  
13 and

14 (C) the analysis in the document, including  
15 the analysis of any impacts, effects, and com-  
16 mitments shall—

17 (i) detail the ecological values (includ-  
18 ing fish and wildlife, plant communities,  
19 wetlands and flood plains, and habitat and  
20 potential habitat for threatened and endan-  
21 gered species) of the Federal land and all  
22 non-Federal land parcels identified for ex-  
23 change in section 4(b);

24 (ii) consider impacts, effects, and  
25 commitments, on or related to those values

1 from or of only current uses of the Federal  
2 land and all non-Federal land parcels identified for exchange in section 3(b) as of the  
3 date of enactment of this Act and any new  
4 uses of those lands that may occur prior to  
5 consummation of the exchange, except as  
6 provided in subsection (e);

7  
8 (iii) shall not consider impacts, effects, and commitments on or related to  
9 those values of any uses to be considered  
10 in post-exchange compliance with section  
11 102(2) of the National Environmental Policy Act of 1969 described in subsection  
12 (d); and

13  
14 (iv) be based on the assumption that  
15 the Federal land and non-Federal land in  
16 the exchange shall be determined to be of  
17 equal value, or the values shall be equalized, or a donation made by Resolution  
18 Copper, pursuant to section 6.

19  
20  
21 (3) DEADLINE.—The document described in  
22 this subsection, if determined necessary under paragraph (1), shall be completed within 270 days of the  
23 date of enactment of this Act.  
24

1           (4) NO PRECEDENT.—The procedures under  
2       this subsection with regard to the National Environ-  
3       mental Policy Act of 1969 compliance on this land  
4       exchange do not establish a precedent with respect  
5       to future land exchanges or other Federal land ac-  
6       tions directed or mandated by Congress.

7       (c) EXCHANGE PROCESSING.—Before the date of  
8       consummation of the exchange under section 4, the Sec-  
9       retary concerned shall complete any necessary land sur-  
10      veys and required preexchange clearances, reviews, mitiga-  
11      tion activities, and approvals relating to—

- 12           (1) threatened or endangered species;
- 13           (2) cultural or historic resources;
- 14           (3) wetland or floodplains; or
- 15           (4) hazardous materials.

16      (d) POST-EXCHANGE PROCESSING.—Before com-  
17      mencing production in commercial quantities of any valu-  
18      able mineral from the Federal land conveyed to Resolution  
19      Copper under section 4(b)(1)(B) (except for any such pro-  
20      duction from any exploration and mine development  
21      shafts, adits, and tunnels needed to determine feasibility  
22      and pilot plant testing of commercial production or to ac-  
23      cess the ore body and tailings deposition areas), the Sec-  
24      retary shall publish an environmental impact statement in  
25      accordance with section 102(2)(C) of the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4322(2)(C)) re-  
2 garding any Federal agency action carried out relating to  
3 the commercial production, including an analysis of the  
4 impacts of the production.

5 (e) OAK FLAT WITHDRAWAL AREA RESTRICTION.—

6 (1) MINERAL EXPLORATION.—To ensure the  
7 collection and consideration of adequate information  
8 to analyze possible commercial production of min-  
9 erals by Resolution Copper from the Oak Flat With-  
10 drawal Area, notwithstanding any other provision of  
11 law, Resolution Copper may carry out mineral explo-  
12 ration activities under the Oak Flat Withdrawal  
13 Area during the period beginning on the date of en-  
14 actment of this Act and ending on the date of con-  
15 veyance of the Oak Flat Withdrawal Area to Resolu-  
16 tion Copper under section 4(b)(1)(B) by directional  
17 drilling or any other method that will not disturb the  
18 surface of the land.

19 (2) SENSE OF CONGRESS REGARDING PER-  
20 MIT.—It is the sense of Congress that the Secretary  
21 should issue to Resolution Copper a permit to con-  
22 duct appropriate directional drilling or other nonsur-  
23 face-disturbing exploration in the Oak Flat With-  
24 drawal Area as soon as practicable after the date of  
25 enactment of this Act.

1       (f) EXCHANGE AND POST-EXCHANGE COSTS.—In ac-  
2 cordance with sections 254.4 and 254.7 of title 36, Code  
3 of Federal Regulations (or successor regulations), Resolu-  
4 tion Copper shall assume responsibility for—

5           (1) hiring such contractors as are necessary for  
6 carrying out any exchange or conveyance of land  
7 under this Act; and

8           (2) paying, without compensation under section  
9 254.7 of title 36, Code of Federal Regulations (or a  
10 successor regulation)—

11           (A) the costs of any appraisal relating to  
12 an exchange or conveyance under this Act, in-  
13 cluding any reasonable reimbursements to the  
14 Secretary on request of the Secretary for the  
15 cost of reviewing and approving an appraisal;

16           (B) the costs of any clearances, reviews,  
17 mitigation activities, and approvals under sub-  
18 section (c), including any necessary land sur-  
19 veys conducted by the Bureau of Land Manage-  
20 ment Cadastral Survey program;

21           (C) the costs of achieving compliance with  
22 the National Environmental Policy Act of 1969  
23 (42 U.S.C. 4321 et seq.) under subsection (d);  
24 and

1 (D) any other cost agreed to by Resolution  
 2 Copper and the Secretary concerned.

3 (g) CONTRACTOR WORK AND APPROVALS.—

4 (1) IN GENERAL.—Any work relating to the ex-  
 5 change or conveyance of land under this Act that is  
 6 performed by a contractor shall be subject to the  
 7 mutual agreement of the Secretary concerned and  
 8 Resolution Copper, including any agreement with re-  
 9 spect to—

10 (A) the selection of the contractor; and

11 (B) the scope of work performed by the  
 12 contractor.

13 (2) REVIEW AND APPROVAL.—Any required re-  
 14 view and approval of work by a contractor shall be  
 15 performed by the Secretary concerned, in accordance  
 16 with applicable law (including regulations).

17 (3) LEAD ACTOR AGREEMENT.—The Secretary  
 18 of Agriculture and the Secretary of the Interior may  
 19 mutually agree to designate the Secretary of Agri-  
 20 culture as the lead actor for any action under this  
 21 subsection.

22 **SEC. 6. CONVEYANCE OF LAND TO TOWN.**

23 (a) CONVEYANCE REQUIREMENTS.—

1           (1) IN GENERAL.—On receipt of a request from  
2           the Town described in paragraph (2), the Secretary  
3           shall convey to the Town each parcel requested.

4           (2) DESCRIPTION OF REQUEST.—A request re-  
5           ferred to in paragraph (1) is a request by the  
6           Town—

7                     (A) for the conveyance of 1 or more of the  
8                     parcels identified in subsection (b); and

9                     (B) that is submitted to the Secretary by  
10           not later than 90 days after the date of con-  
11           summation of the land exchange under section  
12           4.

13           (3) PRICE.—The Town shall pay to the Sec-  
14           retary a price equal to the market value of any land  
15           conveyed under this subsection, as appraised under  
16           section 7, less the amount of any credit under sec-  
17           tion 7(b)(3).

18           (b) IDENTIFICATION OF PARCELS.—The Town may  
19           request conveyance of any of—

20                     (1) the approximately 30 acres of land located  
21                     in Pinal County, Arizona, occupied on the date of  
22                     enactment of this Act by the Fairview Cemetery and  
23                     depicted on the map entitled “Southeast Arizona  
24                     Land Exchange and Conservation Act of 2009—Fed-

1 eral Parcel–Fairview Cemetery” and dated January  
2 2009;

3 (2) the reversionary interest, and any reserved  
4 mineral interest, of the United States in the approxi-  
5 mately 265 acres of land located in Pinal County,  
6 Arizona, depicted on the map entitled “Southeast  
7 Arizona Land Exchange and Conservation Act of  
8 2009–Federal Reversionary Interest–Superior Air-  
9 port” and dated January 2009; and

10 (3) all or any portion of the approximately 250  
11 acres of land located in Pinal County, Arizona, de-  
12 picted on the map entitled “Southeast Arizona Land  
13 Exchange and Conservation Act of 2009–Federal  
14 Parcel–Superior Airport Contiguous Parcels” and  
15 dated January 2009.

16 (c) CONDITION OF CONVEYANCE.—A conveyance of  
17 land under this section shall be carried out in a manner  
18 that provides the United States manageable boundaries on  
19 any parcel retained by the Secretary, to the maximum ex-  
20 tent practicable.

21 **SEC. 7. VALUATION OF LAND EXCHANGED OR CONVEYED.**

22 (a) EXCHANGE VALUATION.—

23 (1) IN GENERAL.—The value of the land to be  
24 exchanged under section 4 or conveyed to the Town  
25 under section 6 shall be determined by the Secretary

1 through concurrent appraisals conducted in accord-  
2 ance with paragraph (2).

3 (2) APPRAISALS.—

4 (A) IN GENERAL.—An appraisal under this  
5 section shall be—

6 (i) performed by an appraiser mutu-  
7 ally agreed to by the Secretary and Resolu-  
8 tion Copper;

9 (ii) performed in accordance with—

10 (I) the Uniform Appraisal Stand-  
11 ards for Federal Land Acquisitions  
12 (Department of Justice, 5th Edition,  
13 December 20, 2000);

14 (II) the Uniform Standards of  
15 Professional Appraisal Practice; and

16 (III) Forest Service appraisal in-  
17 structions; and

18 (iii) submitted to the Secretary for re-  
19 view and approval.

20 (B) REAPPRAISALS AND UPDATED AP-  
21 PRAISED VALUES.—After the final appraised  
22 value of a parcel is determined and approved  
23 under subparagraph (A), the Secretary shall  
24 not be required to reappraise or update the  
25 final appraised value—

1 (i) for a period of 3 years after the  
2 approval by the Secretary of the final ap-  
3 praised value under subparagraph (A)(iii);  
4 or

5 (ii) at all, in accordance with section  
6 254.14 of title 36, Code of Federal Regula-  
7 tions (or a successor regulation), after an  
8 exchange agreement is entered into by Res-  
9 olution Copper and the Secretary.

10 (C) PUBLIC REVIEW.—Before consum-  
11 mating the land exchange under section 4, the  
12 Secretary shall make available for public review  
13 a summary of the appraisals of the land to be  
14 exchanged.

15 (3) FAILURE TO AGREE.—If the Secretary and  
16 Resolution Copper fail to agree on the value of a  
17 parcel to be exchanged, the final value of the parcel  
18 shall be determined in accordance with section  
19 206(d) of the Federal Land Policy and Management  
20 Act of 1976 (43 U.S.C. 1716(d)).

21 (4) FEDERAL LAND APPRAISAL.—

22 (A) IN GENERAL.—The Federal land shall  
23 be appraised in accordance with the standards  
24 and instructions referred to in paragraph

1 (2)(A)(ii) and other applicable requirements of  
2 this section.

3 (B) TREATMENT AS UNENCUMBERED.—

4 The value of the Federal land outside the Oak  
5 Flat Withdrawal Area shall be determined as if  
6 the land is unencumbered by any unpatented  
7 mining claims of Resolution Copper.

8 (C) EFFECT.—Nothing in this Act affects  
9 the validity of any unpatented mining claim or  
10 right of Resolution Copper.

11 (D) ADDITIONAL APPRAISAL INFORMA-  
12 TION.—To provide information necessary to cal-  
13 culate a value adjustment payment for purposes  
14 of section 12, the appraiser under this para-  
15 graph shall include in the appraisal report a de-  
16 tailed royalty income approach analysis, in ac-  
17 cordance with the Uniform Appraisal Standards  
18 for Federal Land Acquisition, of the market  
19 value of the Federal land, even if the royalty in-  
20 come approach analysis is not the appraisal ap-  
21 proach relied on by the appraiser to determine  
22 the final market value of the Federal land.

23 (b) EQUALIZATION OF VALUE.—

24 (1) SURPLUS OF FEDERAL LAND VALUE.—

1           (A) IN GENERAL.—If the final appraised  
2           value of the Federal land exceeds the value of  
3           the non-Federal land involved in the exchange  
4           under section 4, Resolution Copper shall make  
5           a cash equalization payment into the Federal  
6           Land Disposal Account (as provided in sub-  
7           section (e)) to equalize the values of the Fed-  
8           eral land and non-Federal land.

9           (B) AMOUNT OF PAYMENT.—Notwith-  
10          standing section 206(b) of the Federal Land  
11          Policy and Management Act of 1976 (43 U.S.C.  
12          1716(b)), the United States may accept a cash  
13          equalization payment under subparagraph (A)  
14          in an amount that is greater than 25 percent  
15          of the value of the Federal land.

16          (2) SURPLUS OF NON-FEDERAL LAND VALUE.—  
17          If the final appraised value of the non-Federal land  
18          exceeds the value of the Federal land involved in the  
19          exchange under section 4—

20                (A) the United States shall not make a  
21                payment to Resolution Copper to equalize the  
22                values of the land; and

23                (B) the surplus value of the non-Federal  
24                land shall be considered to be a donation by  
25                Resolution Copper to the United States.

1           (3) PAYMENT FOR LAND CONVEYED TO  
2 TOWN.—

3           (A) IN GENERAL.—The Town shall pay the  
4 Secretary market value for any land acquired  
5 by the Town from the Secretary under section  
6 6, as determined by the Secretary through an  
7 appraisal conducted in accordance with sub-  
8 section (a)(2).

9           (B) CREDIT.—If the final appraised value  
10 of the non-Federal land exceeds the value of the  
11 Federal land in the exchange under section 4,  
12 the obligation of the Town to pay the United  
13 States under subparagraph (A) shall be reduced  
14 by an amount equal to the excess value of the  
15 non-Federal land conveyed to the United  
16 States.

17       (4) DISPOSITION AND USE OF PROCEEDS.—

18           (A) CASH EQUALIZATION PAYMENTS.—Any  
19 cash equalization payment under paragraph  
20 (1)(A) shall be deposited, without further ap-  
21 propriation, in the Federal Land Disposal Ac-  
22 count for use in accordance with section 4(e).

23           (B) PAYMENT FOR LAND CONVEYED TO  
24 TOWN.—Any payment received by the Secretary

1 from the Town under paragraph (3)(A) shall  
2 be—

3 (i) deposited in the fund established  
4 under Public Law 90–171 (commonly  
5 known as the “Sisk Act”) (16 U.S.C.  
6 484a); and

7 (ii) made available to the Secretary,  
8 without further appropriation, for the ac-  
9 quisition of land for addition to the Na-  
10 tional Forest System in the State of Ari-  
11 zona.

12 **SEC. 8. APACHE LEAP PROTECTION AND MANAGEMENT.**

13 (a) APACHE LEAP PROTECTION AND MANAGE-  
14 MENT.—

15 (1) IN GENERAL.—To permanently protect the  
16 cultural, historic, educational, and natural resource  
17 values of Apache Leap, effective beginning on the  
18 date of enactment of this Act, the Secretary shall—

19 (A) manage Apache Leap in accordance  
20 with the laws (including regulations) applicable  
21 to the National Forest System; and

22 (B) place special emphasis on preserving  
23 the natural character of Apache Leap.

24 (2) WITHDRAWAL.—Subject to the valid exist-  
25 ing rights of Resolution Copper under section

1 4(d)(2), effective beginning on the date of enactment  
2 of this Act, Apache Leap shall be permanently with-  
3 drawn from all forms of entry and appropriation  
4 under—

5 (A) the public land laws (including the  
6 mining and mineral leasing laws); and

7 (B) the Geothermal Steam Act of 1970  
8 (30 U.S.C. 1001 et seq.).

9 (b) ADDITIONAL PROTECTIONS, ANALYSIS, AND  
10 PLAN.—

11 (1) MANAGEMENT PLAN.—Not later than 4  
12 years after the date of enactment of this Act, the  
13 Secretary, in consultation with the Town, Resolution  
14 Copper, the Yavapai and Apache Indian tribes, and  
15 other interested members of the public, shall solicit  
16 public comment regarding, and initiate implementa-  
17 tion of, a management plan for Apache Leap.

18 (2) PLANNING CONSIDERATIONS.—The plan de-  
19 scribed in paragraph (1) shall examine, among other  
20 matters, whether Apache Leap should be managed  
21 to establish—

22 (A) additional cultural and historical re-  
23 source protections or measures, including per-  
24 manent or seasonal closures of any portion of

1 Apache Leap to protect cultural or archeological  
2 resources;

3 (B) additional or alternative public access  
4 routes, trails, and trailheads to Apache Leap;  
5 or

6 (C) additional opportunities (including ap-  
7 propriate access) for rock climbing, with special  
8 emphasis on improved rock climbing access to  
9 Apache Leap from the west.

10 (c) MINING ACTIVITIES.—Nothing in this section im-  
11 poses any restriction on any exploration or mining activity  
12 carried out by Resolution Copper outside of Apache Leap  
13 after the date of enactment of this Act.

14 **SEC. 9. INCORPORATION, MANAGEMENT, AND STATUS OF**  
15 **ACQUIRED LAND.**

16 (a) LAND ACQUIRED BY SECRETARY.—

17 (1) IN GENERAL.—Land acquired by the Sec-  
18 retary under this Act shall—

19 (A) become part of the National Forest  
20 within which the land is located; and

21 (B) be administered in accordance with the  
22 laws (including regulations) applicable to the  
23 National Forest System.

24 (2) BOUNDARIES.—For purposes of section 7 of  
25 the Land and Water Conservation Fund Act of 1965

(16 U.S.C. 4601 et seq.), the boundaries of a National Forest in which land acquired by the Secretary is located shall be deemed to be the boundaries of that forest as in existence on January 1, 1965.

(3) MANAGEMENT OF J-I RANCH.—

(A) IN GENERAL.—On the date on which the Secretary acquires the J-I Ranch parcel described in section 4(c)(1)(D), the Secretary shall manage the land to allow Yavapai and Apache Indian tribes—

(i) to access the land; and

(ii) to undertake traditional activities relating to the gathering of acorns.

(B) AUTHORITY OF SECRETARY.—On receipt of a request from the Yavapai or Apache Indian tribe, the Secretary may temporarily or seasonally close to the public any portion of the J-I Ranch during the period in which the Yavapai or Apache Indian tribe carries out any activity described in subparagraph (A)(ii).

(b) ROCK CLIMBING.—

(1) IN GENERAL.—Before consummating the land exchange under section 4, Resolution Copper shall pay to the Secretary \$1,250,000.

1           (2) USE OF FUNDS.—The Secretary shall use  
2           the amount described in paragraph (1), without fur-  
3           ther appropriation, to construct or improve road ac-  
4           cess, turnouts, trails, camping, parking areas, or  
5           other facilities to promote and enhance rock climb-  
6           ing, bouldering, and such other outdoor recreational  
7           opportunities as the Secretary determines to be ap-  
8           propriate—

9                   (A) in the general area north of Arizona  
10           State Highway 60 encompassing the parcel de-  
11           scribed in section 4(c)(1)(F) and adjacent Na-  
12           tional Forest land to the north of that parcel  
13           (commonly known as the “upper Pond area”);  
14           or

15                   (B) in the areas commonly known as  
16           “Inconceivables” and “Chill Hill” located in or  
17           adjacent to secs. 26, 35, and 36, T. 2 S., R. 12  
18           E., Gila and Salt River Meridian.

19           (3) TIMING.—To the maximum extent prac-  
20           ticable, the Secretary shall use the amount described  
21           in paragraph (1) during the 2-year period beginning  
22           on the date of consummation of the land exchange  
23           under section 4.

24           (4) THE POND PARCEL WORK.—

1 (A) IN GENERAL.—To improve rock climb-  
 2 ing opportunities in the parcel described in sec-  
 3 tion 4(c)(1)(F) and the upper Pond area, Reso-  
 4 lution Copper, in consultation with the Sec-  
 5 retary and rock climbing interests, may con-  
 6 struct roads or improve road access to, con-  
 7 struct trails, camping, parking areas, or other  
 8 facilities on, or provide other access to, the  
 9 Pond parcel described in section 4(c)(1)(F) be-  
 10 fore the date of the conveyance under section  
 11 4(c).

12 (B) COSTS.—Resolution Copper shall pay  
 13 the cost of any activity carried out under sub-  
 14 paragraph (A), in addition to the amount speci-  
 15 fied in paragraph (1).

16 (c) LAND ACQUIRED BY SECRETARY OF INTERIOR.—

17 (1) IN GENERAL.—Land acquired by the Sec-  
 18 retary of the Interior under this Act shall—

19 (A) become part of the Federal administra-  
 20 tive area (including the Las Cienegas National  
 21 Conservation Area or other national conserva-  
 22 tion area, if applicable) within which the land  
 23 is located or to which the land is adjacent; and

24 (B) be managed in accordance with the  
 25 laws (including regulations) applicable to the

1 Federal administrative area or national con-  
 2 servation area within which the land is located  
 3 or to which the land is adjacent.

4 (2) LOWER SAN PEDRO RIVER LAND.—To pre-  
 5 serve and enhance the natural character and con-  
 6 servation value of the lower San Pedro River land  
 7 described in section 4(c)(2)(A), on acquisition of the  
 8 land by the Secretary of the Interior, the land shall  
 9 be automatically incorporated in, and administered  
 10 as part of, the San Pedro Riparian National Con-  
 11 servation Area.

12 (d) WITHDRAWAL.—On acquisition by the United  
 13 States of any land under this Act, subject to valid existing  
 14 rights and without further action by the Secretary con-  
 15 cerned, the acquired land is permanently withdrawn from  
 16 all forms of entry and appropriation under—

17 (1) the public land laws (including the mining  
 18 and mineral leasing laws); and

19 (2) the Geothermal Steam Act of 1970 (30  
 20 U.S.C. 1001 et seq.).

21 **SEC. 10. OAK FLAT CAMPGROUND.**

22 (a) REPLACEMENT CAMPGROUNDS.—

23 (1) IN GENERAL.—Not later than 4 years after  
 24 the date of enactment of this Act, the Secretary, in  
 25 consultation with Resolution Copper, the Town, and

1 other interested parties, shall design and construct  
2 in the Globe Ranger District of the Tonto National  
3 Forest 1 or more replacement campgrounds for the  
4 Oak Flat Campground (including appropriate access  
5 routes to any replacement campgrounds).

6 (2) PUBLIC FACILITIES.—Any replacement  
7 campgrounds under this subsection shall be designed  
8 and constructed in a manner that adequately (as de-  
9 termined in the sole discretion of the Secretary) re-  
10 places, or improves on, the facilities, functions, and  
11 amenities available to the public at the Oak Flat  
12 Campground.

13 (b) COSTS OF REPLACEMENT.—Resolution Copper  
14 shall pay the actual cost of designing, constructing, and  
15 providing access to any replacement campgrounds under  
16 this subsection, not to exceed \$1,000,000.

17 (c) INTERIM OAK FLAT CAMPGROUND ACCESS.—The  
18 document conveying the Federal land to Resolution Cop-  
19 per under section 4(b) shall specify that—

20 (1) during the 4-year period beginning on the  
21 date of enactment of this Act, the Secretary shall re-  
22 tain title to, operate, and maintain the Oak Flat  
23 Campground; and

24 (2) at the end of that 4-year period—

1 (A) the withdrawal of the Oak Flat Camp-  
 2 ground shall be revoked; and

3 (B) title to the Oak Flat Campground  
 4 shall be simultaneously conveyed to Resolution  
 5 Copper.

6 (d) BOULDERBLAST COMPETITION.—During the 5-  
 7 year period beginning on the date of enactment of this  
 8 Act, the Secretary, in consultation with Resolution Cop-  
 9 per, may issue not more than 1 special use permit per  
 10 calendar year to provide public access to the bouldering  
 11 area on the Federal land for purposes of the annual  
 12 “BoulderBlast” competition.

13 **SEC. 11. TRADITIONAL ACORN GATHERING AND RELATED**  
 14 **ACTIVITIES IN AND AROUND OAK FLAT**  
 15 **CAMPGROUND.**

16 (a) SENSE OF CONGRESS REGARDING ACORN GATH-  
 17 ERING.—In addition to the acorn gathering opportunities  
 18 described in section 9(a)(3)(A)(ii), it is the sense of Con-  
 19 gress that, on receipt of a request from the Apache or  
 20 Yavapai Indian tribe or any other Indian tribe during the  
 21 180-day period beginning on the date of conveyance of the  
 22 Federal land to Resolution Copper under section 4, Reso-  
 23 lution Copper should endeavor to negotiate and execute  
 24 a revocable authorization to each applicable Indian tribe

1 to use an area in and around the Oak Flat Campground  
 2 for traditional acorn gathering and related activities.

3 (b) AREA AND TERMS.—The precise area and terms  
 4 of use described in subsection (a)—

5 (1) shall be agreed to by Resolution Copper and  
 6 the applicable Indian tribes; and

7 (2) may be modified or revoked by Resolution  
 8 Copper if Resolution Copper, in consultation with  
 9 the Indian tribes, determines that all or a portion of  
 10 the authorized use area needs to be closed on a tem-  
 11 porary or permanent basis—

12 (A) to protect the health or safety of users;

13 or

14 (B) to accommodate an exploration or min-  
 15 ing plan of Resolution Copper.

16 **SEC. 12. VALUE ADJUSTMENT PAYMENT TO UNITED**  
 17 **STATES.**

18 (a) ANNUAL PRODUCTION REPORTING.—

19 (1) IN GENERAL.—Beginning on February 15  
 20 of the first calendar year beginning after the date of  
 21 commencement of production of valuable locatable  
 22 minerals in commercial quantities (as defined by ap-  
 23 plicable Federal laws (including regulations)) from  
 24 the Federal land conveyed to Resolution Copper  
 25 under section 4(b), and annually thereafter, Resolu-

1       tion Copper shall file with the Secretary of the Inte-  
2       rior a report indicating the quantity of locatable  
3       minerals in commercial quantities produced from the  
4       Federal land during the preceding calendar year.

5           (2) REPORT CONTENTS.—The reports under  
6       paragraph (1) shall comply with all recordkeeping  
7       and reporting requirements of applicable Federal  
8       laws (including regulations) in effect at the time of  
9       production relating to the production of valuable  
10      locatable minerals in commercial quantities on any  
11      federally owned land.

12      (b) PAYMENT ON PRODUCTION.—If the cumulative  
13      production of valuable locatable minerals in commercial  
14      quantities produced from the Federal land conveyed to  
15      Resolution Copper under section 4(b) exceeds the quantity  
16      of production of locatable minerals from the Federal land  
17      used in the royalty income approach analysis under the  
18      Uniform Appraisal Standards for Federal Land Acquisi-  
19      tions prepared under section 7(a)(4)(D), Resolution Cop-  
20      per shall pay to the United States, by not later than  
21      March 15 of each applicable calendar year, a value adjust-  
22      ment payment for the quantity of excess production at a  
23      rate equal to—

24           (1) the Federal royalty rate in effect for the  
25      production of valuable locatable minerals from feder-

1 ally owned land, if such a rate is enacted before De-  
 2 cember 31, 2012; or

3 (2) if no Federal royalty rate is enacted by the  
 4 date described in paragraph (1), the royalty rate  
 5 used for purposes of the royalty income approach  
 6 analysis prepared under section 7(a)(4)(D).

7 (c) STATE LAW UNAFFECTED.—Nothing in this Act  
 8 modifies, expands, diminishes, amends, or otherwise af-  
 9 fects any State law (including regulations) relating to the  
 10 imposition, application, timing, or collection of a State ex-  
 11 cise or severance tax under Arizona Revised Statutes 42–  
 12 5201–5206.

13 (d) USE OF FUNDS.—The funds paid to the United  
 14 States under this section shall—

15 (1) be deposited in a special account of the  
 16 Treasury; and

17 (2) remain available, without further appropria-  
 18 tion, to the Secretary and the Secretary of the Inte-  
 19 rior, as the Secretaries jointly determine to be ap-  
 20 propriate, for the acquisition of land or interests in  
 21 land from willing sellers in the State of Arizona.

## 22 **SEC. 13. MISCELLANEOUS PROVISIONS.**

23 (a) REVOCATION OF ORDERS; WITHDRAWAL.—

24 (1) REVOCATION OF ORDERS.—Any public land  
 25 order that withdraws the Federal land from appro-

1        priation or disposal under a public land law shall be  
2        revoked to the extent necessary to permit disposal of  
3        the land.

4            (2) WITHDRAWAL.—On the date of enactment  
5        of this Act, if the Federal land or any Federal inter-  
6        est in the non-Federal land to be exchanged under  
7        section 4 is not withdrawn or segregated from entry  
8        and appropriation under a public land law (including  
9        mining and mineral leasing laws and the Geothermal  
10       Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the  
11       land or interest shall be withdrawn, without further  
12       action required by the Secretary concerned, from  
13       entry and appropriation, subject to the valid existing  
14       rights of Resolution Copper, until the date of the  
15       conveyance of Federal land under section 4(b).

16       (b) MAPS, ESTIMATES, AND DESCRIPTIONS.—

17            (1) MINOR ERRORS.—The Secretary concerned  
18        and Resolution Copper, may correct, by mutual  
19        agreement, any minor errors in any map, acreage es-  
20       timate, or description of any land conveyed or ex-  
21       changed under this Act.

22            (2) CONFLICT.—If there is a conflict between a  
23        map, an acreage estimate, or a description of land  
24        under this Act, the map shall control unless the Sec-

1       retary concerned and Resolution Copper mutually  
2       agree otherwise.

3           (3) AVAILABILITY.—On the date of enactment  
4       of this Act, the Secretary shall file and make avail-  
5       able for public inspection in the Office of the Super-  
6       visor, Tonto National Forest, each map referred to  
7       in this Act.

○